

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

JOHN FREITAS, et al.

v.

C.A. No. 2015-450-M-LDA

PETER KILMARTIN, in his official capacity
as Attorney General of the State of Rhode
Island, and A.T. WALL II, in his official
capacity as Director of the Department of
Corrections of the State of Rhode Island

TEMPORARY RESTRAINING ORDER

This matter came on for hearing on October 30, 2015, before the Hon. John J. McConnell, Jr., United States District Judge, on the Motion of the Plaintiffs for the issuance of a Temporary Restraining Order, pursuant to Rule 65(a) of the Federal Rules of Civil Procedure, and, after hearing argument of the parties and consideration of the respective submissions, the Court finds as follows:

- a. Plaintiffs have established a likelihood of success on the merits of one or more of the grounds raised in their complaint that R.I.G.L. § 11-37.1-10(d) is unconstitutional;
- b. Plaintiffs have demonstrated that they and the proposed class will suffer irreparable harm from enforcement of R.I.G.L. § 11-37.1-10(d) against them;
- c. In considering the public interest and the balance of the harm, that the delay from enforcement of R.I.G.L. § 11-37.1-10(d) will cause little immediate harm to the defendants and the public, such that the balance of the harm between granting or denying the injunction tips in favor of the plaintiffs.

Accordingly, it is hereby

ORDERED

1. Defendants, PETER KILMARTIN, in his official capacity as Attorney General of the State of Rhode Island, and A.T. WALL II, in his official capacity as Director of the Department of Corrections of the State of Rhode Island, their agents, servants, employees, and all persons acting in concert with them, are hereby restrained and enjoined from enforcing R.I.G.L. § 11-37.1-10(d) as to the named Plaintiffs and all persons currently residing in, and those who may in the future relocate to, the State of Rhode Island who were or are convicted of offenses that require registration under the Sexual Offender Registration and Community Notification Act of the State of Rhode Island, chapter 11-37.1 of the General Laws of the State of Rhode Island, and have been, or will be, assigned to “tier” or “level” 3 and are therefore subject to R.I.G.L. § 11-37.1-10(d).
2. This matter is scheduled for hearing on Plaintiffs’ Motion for Preliminary Injunction, which shall be consolidated with trial on the merits on January 19, 20, and 21, 2016, commencing at 9:30 a.m.
3. This order shall remain in effect until the Court issues its decision and order after consolidated hearing on preliminary injunction and trial.

ENTERED as the Order of the Court this 4th day of November, 2015 nunc pro tunc to October 30, 2015 at 4:14 p.m.

By Order,


Clerk

ENTER. 
United States District Judge

AGREED AS TO FORM AS TO ALL PARAGRAPHS AND AS TO FORM AND
SUBSTANCE AS TO PARAGRAPHS 2 AND 3:

For the Plaintiffs:

/s/ Lynette Labinger
Lynette Labinger #1645
Roney & Labinger LLP
344 Wickenden Street
Providence, RI 02903
(401) 421-9794 -tel
(401) 421-0132 -fax
labinger@roney-labinger.com

/s/ John E. MacDonald
John E. MacDonald #5368
Law Office of John E. MacDonald, Inc.
One Turks Head Place, Suite 1440
Providence, RI 02903
(401) 421-1440 -tel
(401) 421-1442 -fax
jm@jmaclaw.com

For the Defendants:

/s/ Rebecca Tedford Partington
/s/ Susan Urso

Rebecca Tedford Partington, #3890
Assistant Attorney General
Susan Urso, #4688
Assistant Attorney General
150 South Main Street
Providence, RI 02903-2907
Tel: (401) 274-4400
Fax: (401) 222-2995